

DELEGATED REPORT

Date: 15 March 2012 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
 Commercial Team

Reference: 12/00100/FUL
Application at: 32 Lord Mayors Walk York YO31 7HA
For: Change of use from offices with flat above to a 10 bedroom house in multiple occupation
By: Mr Adam Bennett
Application Type: Full Application
Target Date: 13 March 2012
Recommendation: Approve

1.0 PROPOSAL

SITE

1.1 This application seeks planning permission for the change of use from former offices with a vacant flat above to a 10 bedroom house in multiple occupation at 32 Lord Mayor's Walk. The property is a four storey (third floor in the attic) with a basement that was recently renovated with the addition of a lightwell to the front elevation. It is listed at Grade II and is situated within a short terrace of early mid-C19th houses on the north side of Lord Mayor's Walk close to St John's University. It is within the Central Historic Core Conservation Area, situated just outside the city walls. The neighbouring properties are in residential use; the adjoining properties have been divided into flats for 3 residents.

PROPOSAL

1.2 The application is retrospective as the building has been occupied by 10 residents since October 2010. The premises have a licence as a House in Multiple Occupancy (HMO) in compliance with the Housing Act 2004

1.3 The following works have taken place internally and Members are advised that they are not a matter for consideration in this application for planning permission for the change of use to an HMO. Although detailed on the submitted drawings, they would require listed building consent only -

- a) the formation of a new bathroom and entrance to Bedroom 3 (1st floor)
- b) formation of bedroom and entrance Bedroom 5 (2nd floor)
- c) subdivision of part of third floor to 2 bedrooms.

PLANNING HISTORY

1.4 LPA Refs. 07/01626/FUL and 07/01627/LBC- Previous applications for planning permission and listed building consent to convert to building into a 12 bedroom student house were withdrawn on 23 August 2008.

1.5 LPA Ref. 08/02312/FUL- Change of use from offices with flat above to dwellinghouse and new window in gable end (Class C3). The use as a single dwelling has not been implemented. Listed Building consent was obtained for the alterations to the listed building in April 2010 , LPA Ref. 10/00253/LBC, and the following alterations have been undertaken- the insertion of rooflights in the front and rear roofslopes, the opening up of a former opening in the north western gable at attic level with the insertion of a casement window, the installation of a timber sash window in the front elevation at basement level, and the formation of a pavement lightwell with a metal grill.

1.6 This application is presented to the West/ Centre planning sub-committee at the request of Councillor Watson given the retrospective nature of the application and the current occupation by students.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

Listed Buildings GMS Constraints: Grade 2; 32 Lord Mayors Walk York YO3 7HA 0569

Listed Buildings GMS Constraints: Grade 2; 30 Lord Mayors Walk York YO3 7HA 0568

Schools GMS Constraints: St. Wilfrid's RC Primary 0230

2.2 Policies:

CYH8-Conversion to flats/HMO/student accom

CYT4-Cycle parking standards

CYL1C-Provision of New Open Space in Development

CYE3B-Existing and Proposed Employment Sites

CYGP1-Design
CYH12-Conversion of redundant offices
CYHE3-Conservation Areas
CYHE4-Listed Buildings
CYGP4A-Sustainability
CYGP4B-Air Quality

3.0 CONSULTATIONS

INTERNAL

Design, Conservation, and Sustainable Development

3.1 No objections subject to conditions

Environmental Protection Unit

3.2 Raise issues of noise and air quality, and recommend conditions.

Lifelong Leisure and Learning

3.3 A commuted payment would be required that would be targeted the amenity open space contribution to the Bar Walls or Clarence Gardens, and, sports pitch contribution to Clarence Gardens.

EXTERNAL

Guildhall Planning Panel

3.4 No objections subject to a management plan for maintenance, and safeguarding the privacy of occupants of Bedroom 1 with curtains or other means.

Safer York Partnership

3.5 Advises applicant to consider the security advice contained in the York Code of Best Practice for Student Accommodation 2011/2012. Advises the LPA to ensure that mixed and balanced communities are maintained, thus avoiding the problems of anti-social behaviour, noise, and nuisance and increased crime that can result from a high concentration of houses in multiple occupation.

Local Representations

3.6 The application was publicised by neighbour notification letters, site notice and press notice with an expiry date of 29.2.2012. One representation has been

received from the owner of a neighbouring HMO property supporting the proposal for the following reasons:

- derelict property has been beautifully renovated
- current tenants are good neighbours and should be supported

4.0 APPRAISAL

KEY ISSUES

- loss of employment use and increase in residential use/ HMO
- visual impact on the conservation area and the listed building
- residential amenity, including noise and air quality
- cycle parking and waste management
- public open space

POLICY CONTEXT

4.1 The relevant development plan is the City of York Council Development Control Local Plan, approved by Full Council on 12th April 2005 for the purpose of making Development Control Decisions, on the advice of the GOYH. The relevant policies are-

4.2 Policy HE3 of the City of York Development Control Local Plan (2005) states that within conservation area, proposals will only be permitted where there is no adverse effect on the character and appearance of the conservation area.

4.3 Policy HE4 relates specifically to listed buildings and states that consent for development in the immediate vicinity of listed buildings, demolition, internal and external alteration, and changes of use will only be granted where there is no adverse effect on the character, appearance or setting of the listed building.

4.4 Policy H12 of the local plan seeks to allow the conversion of redundant office space to residential use provided there is sufficient supply to meet immediate and long term needs; there would be no impact on the vitality and viability of the city; and there would be no adverse impact on residential amenity.

4.5 Policy E3b seeks to retain supply of employment sites within the city. To this end, applicants will have to demonstrate that there is a sufficient supply in qualitative and quantitative terms to meet the needs over the plan period; ensure that there is no unacceptable environmental problem; and permission may be given if the development would lead to significant benefit to the local economy or the use is ancillary to an employment use.

4.6 Policy GP4a seeks to ensure that all development should have regard to the principles of sustainable development.

4.7 Policy GP4b requires proposals for development in an AQMA (Air Quality Management Area) to assess their impact on air quality.

4.8 Policy H8 states that permission will only be granted for the conversion of a dwelling to flats or multiple occupation where: the dwelling is of sufficient size (min 4 bedrooms) and the internal layout is suitable for the proposed number of households or occupants; external alterations would not harm the appearance of the area; adequate on and off road parking and cycle parking is incorporated; it would not create an adverse impact on neighbouring amenity through noise disturbance or residential character by virtue of the conversion alone or cumulatively with a concentration of such uses; adequate provision is made for the storage and collection of refuse and recycling.

4.9 Criteria h) and i) of policy GP1 states that proposals will be expected to ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures and provide individual or communal storage space for waste recycling and litter collection.

4.10 Policy T4 - Seeks to promote cycling and states that all new development should provide storage for cycles in accordance with the standards in appendix E of the Local Plan.

4.11 Policy L1c - Requires that all housing sites make provision for the open space needs of future occupiers. For sites of less than 10 dwellings a commuted payment will be required towards off site provision.

4.12 National planning guidance on which the above policies are based is contained in Planning Policy Statement 1 " Delivering Sustainable Development " (2005), "Planning Policy Statement 5 " Planning for the Historic Environment " (2010), Planning Policy Guidance Note No. 24 "Planning and Noise" and Planning Policy Statement 3 " Housing (2006). "

ASSESSMENT

LAND USE ISSUES: LOSS OF EMPLOYMENT USE AND INCREASE IN RESIDENTIAL USE/ HMO

4.13 The building obtained planning permission and listed building consent for conversion from vacant offices and a vacant flat into a single dwellinghouse under permissions LPA Refs. 08/02312/FUL and 10/00253/LBC. Members are advised that although the listed building alterations have taken place, the planning permission was not implemented and it recently expired on 23 December 2011. This

previous planning permission took account of the submitted evidence from local estate agents that the building had limited appeal as offices. The Council's Economic Development Officer at that time advised that the loss of the building would not be significant as it had no strategic importance in terms of employment land supply, and the use of the building would be returning to its original use. Circumstances have not significantly altered since the determination of the previous planning application, and it is considered that current economic and local market conditions have not increased demand for this form of office accommodation. It is therefore concluded that there is no conflict with Policy E3b of the Local Plan.

4.14 The proposed use would increase residential use within a terrace of largely residential properties where there are residential properties to the rear. Policy H12 would only support the conversion of redundant office space to residential use where there is evidence that there is a sufficient supply of offices to meet both immediate and long term requirements, the proposal would not harm the vitality and viability of the city centre, and would have no impact on residential amenity. It is considered that the proposed residential use would comply with Policy H12 as the premises are not ideal for re-use as office, the vitality and viability of the town centre would not be harmed, and the residential use would be compatible with the neighbouring residential uses.

4.15 . The change of use should be assessed in the light of emerging policy guidance ie the draft supplementary planning document currently out to consultation " Controlling the Concentration of Houses in Multiple Occupation " (January 2012) This document and the article 4(1) direction which will come into force on 20th April 2012 are designed to control the concentration of HMOs in York. With respect to issues raised in the document, it is noted that the house is within a short residential street of 10 houses where there is potential to upset the long term residential community if the number of HMO's within the street or area is high. The planning consultant has provided information that indicates that the two neighbouring properties have been divided into three flats, and the smaller terraced houses appear to be in single occupancy. There is no apparent over-concentration of HMOs in this area due to the generally smaller scale of buildings within the terrace and to the rear. The proposal would therefore not conflict with the aims of Policy H8 of the Local Plan and emerging guidance.

4.16 The building itself is large with accommodation over five floors and a rear yard. There is communal living space in the basement, the bedrooms are of an acceptable size, and there are sufficient levels of shared bathroom facilities to provide a satisfactory standard of amenity for 10 residents. The property is located on a busy main arterial route in a largely residential/ small commercial area in a sustainable location. The agent has advised that although planning permission and listed building consent was obtained for a single dwelling, the size, location , restricted amenity space and absence of off-street parking make it unattractive for family accommodation. The proposed type of accommodation would meet a

perceived need for student accommodation for the post-first year student. As such, the principle of the reversion to residential use is considered to be acceptable and would not be contrary to the aims of PPS3 and Local Plan Policies GP4a and H8.

VISUAL IMPACT ON CONSERVATION AREA AND LISTED BUILDING

4.17 When determining planning applications within Conservation Areas, the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character and appearance of the area. The building forms part of a terrace of properties of similar design and, because of its location at back of footpath, is characteristic of properties along this historic route around the City. The property makes a positive contribution to the character and appearance of the conservation area. The recently approved York Central Historic Core Conservation Area Appraisal regarded this building as a “building at risk” as it appeared empty and in poor condition when the appraisal was carried out. The proposal would help ensure a longer term use for the building with one that is compatible with its original purpose. The character of the area would not be adversely affected by the change of use to an HMO and there are few external alterations to the listed building itself that would conflict with Policies HE3 and HE4 of the Local Plan, and related guidance in PPS5. Further details of cycle parking and bin storage which would be sited at the rear of the listed building and not publicly visible in the conservation area have still to be submitted, but it is expected that the details could be effectively conditioned if planning permission is granted by Members.

RESIDENTIAL AMENITY ISSUES

Air Quality

4.18 The proposed development is within the City of York Council's AQMA. Recent monitoring in the vicinity of the application site would suggest that nitrogen dioxide concentrations are above the Government's health based air quality objective levels. The key air quality issue in this case is to minimise exposure of any future residents to poor air quality. The application presents habitable rooms at all levels to the Lord Mayor's Walk facade.- a habitable basement and bedrooms above. The proposal to incorporate non-opening windows to the Lord Mayors Walk facade at basement, ground floor and first floor level with sealed glazing, coupled with mechanical ventilation from the rear of the property could satisfy the Environmental Protection Unit's concerns regarding exposure of future residents of the residential property to poor air quality as previously approved. The proposal would comply with Policy GP4b of the Local Plan subject to these measures and approval of the details. Any mechanical system that is installed to overcome air quality issues must not disturb the neighbouring property.

Neighbouring Amenity/Sound Transference

4.19 The increase in the number of likely occupants in the property may only marginally increase the likelihood for sound transference between properties that could potentially affect the amenity of the occupiers of the neighbouring houses. The planning system cannot account for the activities of individuals and it is not considered reasonable to assume that the residents of a HMO would be more noisy or disruptive than if the property was occupied as a large family house. The agent has submitted an acoustic report indicating that the change of use would not require extra acoustic insulation on internal and adjoining walls. As the change of use to an HMO would have to meet the requirements of Building Regulations, it is considered that sound transmission would be controlled by legislation other than planning legislation. There would be no conflict with Policy GP1 of the Local Plan or guidance contained in PPG 24 " Noise. "

Amenity of Occupants

4.20 The other aspects of noise relate to the potential for noise from the inner ring road adversely affecting the amenity of the residential property. As the noise assessment was submitted as part of the previous planning application for the site was limited in its detail, and no further data has been received in relation to the current application, it is difficult to determine what level of sound attenuation would be required to ensure that the internal noise criteria as detailed in the World Health Community Guidelines on Noise are achieved. These are 30 dB LAeq,1hour and 45 dB LAMax (23:00 - 07:00) in bedrooms and 35 dB LAeq1hour (07:00 - 23:00) in all other habitable rooms. The Environmental Protection Unit recommends that a condition is placed on any approval to ensure that the proposed accommodation would meet the WHO guideline figures. To achieve the WHO guideline noise levels it is highly likely that the windows to the property will have to be closed and alternative ventilation will be required to the habitable room on the front elevation facing Lord Mayor's Walk as indicated in the measures above to meet air quality concerns. Further details of the noise levels of the air handling unit to be installed would require to be submitted for approval by the local planning authority as it could cause loss of amenity.

CYCLE PARKING/ WASTE MANAGEMENT

Waste

4.21 The applicant has advised that refuse/recycling facilities would be located in the rear yard, which is enclosed, with direct access onto Lord Mayors Walk. The current method of waste collection involves black bin bags placed on the highway and the provision of 2 No. wheelie bins for the storage of such bags would appear to be acceptable. These facilities are unlikely to cause a health hazard for neighbouring residents as long as the bins are adequately managed. This could be

achieved through a planning condition if planning permission is granted and should include details of recycling facilities.

Cycle Parking

4.22 The applicant proposes to use the covered passageway to the side of the building as the main storage area for cycle parking and is reluctant to provide formal covered cycle parking in the rear yard given the small space available. It is considered

However that because of its width the passageway would not be acceptable for cycle parking and it could only be accommodated in the rear yard. The property is situated close to good transport links and it is unlikely that the demand for cycle parking would require 10 spaces. It is likely that 4 cycles on 2 Sheffield stands in a secure store could be accommodated and that this would be more sympathetic to amenity requirements and the listed building.

PUBLIC OPEN SPACE

4.23 A financial contribution would be required for the provision of public open space in accordance with Policy L1c of the Development Control Local Plan. This would amount to £1800 and would be targeted to amenity open space at the Bar Walls or Clarence Gardens, and a sports contribution targeted at Clarence Gardens. Members will be advised at the meeting if the applicant agrees to this payment which can be secured by condition.

5.0 CONCLUSION

5.1 The loss of the pre-existing office accommodation is considered to be acceptable in terms of policy E3b and planning permission has been previously granted for this loss. Residential use as an HMO would be compatible with the original use and would safeguard the future of this prominent listed building. It would appear that works have been carried out internally to provide a good standard of accommodation for the occupants without adversely affecting the special interests of the listed building, though listed building consent has yet to be obtained. It is anticipated that cycle parking and waste provision can be achieved within the site, that noise and air quality issues can be effectively addressed, and the level and the nature of the accommodation complies with national and local standards for HMOs.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing No. 12739-1, Received 16.1.2012

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

2 Within a month of the date of the decision, the final details of cycle storage shall have been submitted to and approved in writing by the local planning authority. These facilities shall be provided in accordance with the approved details within two months of the agreement of cycle parking details, and shall thereafter be retained and used for no other purpose except with the written consent of the Local Planning Authority.

Reason: In the interests of sustainability and compliance with Policy T4 of the City of York Development Control Local Plan.

3 Within one month of the date of this decision, a management plan shall be submitted to and approved in writing by the Local Planning Authority to detail arrangements for the storage of bins and recycling boxes within the site. The approved management plan shall be implemented immediately and shall be adhered to at all times.

Reason: In the interests of the amenity of adjacent occupiers and visual amenity.

4 S106OS IN Section 106 Open Space - £1800.00

5 Within two months of the date of this decision all windows to habitable rooms at basement and ground floor level facing Lord Mayors Walk shall be made non-opening, with ventilation provided through continuous mechanical supply and extract (with heat recovery) from the rear of the property. The developer shall provide a maintenance schedule for the ventilation system, and shall clarify responsibility for its running costs and maintenance works, and it shall be retained for the approved use.

Reason: To protect future residents from poor air quality.

INFORMATIVE: All ventilation must comply with the requirements of building regulations. This type of system does not rely on openable windows. Other ventilation systems, including basic mechanical extract, still rely on windows for background ventilation (i.e. trickle vents) and thus would not be suitable in this location. The developer may wish to seek further advice from CYC Building Control on this matter.

6 Details of external grilles shall be submitted for the written approval of the Local Planning Authority, and thereafter the works shall be implemented and retained in accordance with the approved details:

Application Reference Number: 12/00100/FUL

Item No: 4b

Reason: To ensure that the details would be acceptable in the interests of the visual amenity and historical and architectural interest of the Listed Building and the amenity of the wider conservation area.

7 Within one month of the date of this decision a detailed scheme shall be submitted to the local planning authority that achieves internal noise levels in residential accommodation facing onto Lord Mayors Walk of 30 dB LAeq,1hour and 45 dB LAMax (23:00 - 07:00) in bedrooms and 35 dB LAeq1hour (07:00 - 23:00) in all other habitable rooms. These noise levels are with windows shut and other means of acoustic ventilation provided. The scheme shall be approved in writing by the local planning authority and fully implemented within two months of the date of approval.

Reason: To ensure the amenity of the occupiers of the dwelling are not affected by noise from traffic and any required details would not harm the special character of the Listed Building.

8 Details of all machinery plant and equipment to be installed in or located for the use hereby permitted, which is audible outside of the site boundary when in use, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include maximum sound levels (LAm_{ax}(f)) and average sound levels (LAeq), octave band noise levels and any proposed mitigation measures. All such approved machinery, plant and equipment shall subsequently be used on the site in accordance with the agreed details. Any approved noise mitigation measures shall be fully implemented and operational before the associated machinery, plant or equipment to which it relates is first used and shall be appropriately maintained and retained thereafter.

REASON: To safeguard the amenity of occupants of neighbouring premises in accordance with the aims of PPG24.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to-

- The supply of residential and employment accommodation in the City
- Impact of proposed changes on the visual amenity and the historic character of the listed building/ conservation area

- The residential amenity of the neighbours and occupiers
- Cycle and bin storage
- The provision of open space facilities

As such, the proposal complies with Policies HE3, HE4, H12, E4b, H8, GP4a), GP4b), GP1, T4 and L1c of the City of York Development Control Local Plan (2005); and national planning guidance contained in Planning Policy Statement 1 " Delivering Sustainable Development, " Planning Policy Statement 3 " Housing " and Planning Policy Statement 5 " Planning for the Historic Environment " and Planning Policy Guidance Note No 24 " Planning and Noise. "

2. LISTED BUILDING CONSENT

You are advised that works detailed on the submitted drawings require listed building consent under separate legislation. You must obtain this consent from the Local Planning Authority, and the development must be carried out strictly in accordance with the approved plans and the terms and conditions of the Listed Building consent. Please include any alterations required for fire-safety and acoustic control.

3. RENDERED FINISH TO PASSAGEWAY

You are advised that the render in the passageway of the listed building should be removed as it is a modern hard render and it could exacerbate damp problems in the ground floor rooms. This alteration to the finish in the passageway would have required listed building consent and would not be supported by officers for the foregoing reasons.

Contact details:

Author: Fiona Mackay Development Management Officer (Wed - Fri)
Tel No: 01904 552407